

10/18/99

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October 18, 1999

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340087

Re: Stickney/Tyler & XXXem Sites

Dear Ms. Adams and Estes:

This letter is submitted on behalf of the Eastman Kodak Company ("Kodak"). Kodak previously received notice of your claim that Kodak could be held liable for all or a portion of U.S.EPA's outstanding response costs regarding the above-referenced CERCLA Sites. In response, Kodak, at your request, entered into a tolling agreement to allow the parties additional time to evaluate the merits of the asserted claim.

By this letter, we are providing you with information and supporting material regarding the corporate history of National Laboratories and information relating to the TLI allocation upon which U.S.EPA apparently is relying to determine various PRPs' relative liability. The provided information is to assist U.S.EPA in formulating a fair and equitable settlement demand. As a communication in furtherance of settlement, the information provided herein and the contents of this letter are subject to applicable privileges and protections, including Fed. Rule Evid. 408, which restrict their use in litigation. Nothing set forth herein shall be deemed an admission of liability or of any fact, or a waiver of any of Kodak's rights, privileges or defenses.

A. Corporate History

U.S.EPA apparently is of the mistaken belief that Kodak is successor to the liabilities of "National Laboratories" regarding the Stickney and Tyler landfills. We believe that following your review of the enclosed material, you will agree that Kodak bears no liability for the actions of National Laboratories, Inc., an Ohio corporation ("National of Ohio"). Certain assets of

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National of Ohio were transferred on September 17, 1957 to Lehn and Fink Products Corporation ("L&F"), which created an new subsidiary, National Laboratories, Inc., a Delaware corporation ("National of Delaware").

The documents we enclose are as follows: 1) Closing Memorandum; 2) Asset Purchase Agreement; and 3) Instrument of Assumption of Liabilities. These documents confirm that the transaction between National of Ohio and L&F was an asset purchase. Accordingly, the only liabilities of National of Ohio to which L&F would succeed are those that L&F contractually assumed.¹

Under the asset purchase, L&F agreed to "assume, defend, pay, perform or discharge" only those "liabilities, obligations and commitments of National [of Ohio] outstanding and unpaid or unperformed on the closing date as shown on the books of account of National [of Ohio] or as otherwise revealed in writing to Lehn & Fink prior to the closing, and to indemnify National [of Ohio] for the same." Agreement of Sale, ¶3. This undertaking is also set forth in the Instrument of Assumption of Liabilities being provided to you herewith.²

There is, of course, nothing in the disclosure schedule (also provided herewith) under which L&F would assume liability relating to the two involved landfills. Indeed, the law is well-settled that later arising environmental liabilities are not included in an assumption of liabilities outstanding on the closing date. See, *John S. Boyd Co. v. Boston Gas Co.*, 992 F.2d 401, 406-407 (1st Cir. 1993); *United States v. Vermont American Corp.*, 871 F.Supp. 318, 321 (W.D. Mich. 1994); *Northshore Gas Co. v. Salomon, Inc.*, 152 F.3d 642 (N.D. Ill. 1998). See also, *Levin Metal Corp. v. Parr-Richmond Terminal Co.*, 817 F.2d 1448, 1451 (9th Cir. 1987) (CERCLA liability does not arise prior to the enactment of CERCLA).

Accordingly, at most, Kodak's alleged percentage of site costs would correspond to the period after September 17, 1957.

¹ See, *Flaugher v. Cone Automatic Machine Co.*, 507 N.E.2d 331, 337 (Ohio 1987) (Ohio law, rejecting "product line" or "substantial continuation" theories); *In re Asbestos Litigation*, 1994 WL 89643 at 3-4 (Delaware law, same). For purposes of settlement only, we are prepared at this time to assume that Kodak succeeded by contract or law to any liabilities of National of Delaware. Using this assumption, Kodak would be responsible only for the waste disposal activity occurring after September 17, 1957.

² In the controlling indemnity agreement, National of Delaware, to which L&F assigned its rights in the asset purchase agreement, agreed to assume all liabilities of National of Ohio "outstanding and unpaid or unperformed on the date hereof [September 17, 1957] as shown on the books of account of National of Ohio or as otherwise revealed in writing to Lehn & Fink or to National of Delaware before the date hereof [September 17, 1957]. . . ."

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B. The TLI Allocation

TLI ascribed to Kodak a 0.31% (0.0031) share of costs at Stickney and a 0.548% (0.00548%) share of costs at Tyler. The majority of information upon which TLI relied, however, does not support the conclusions drawn regarding National Laboratories ("NL") and wholly ignores that Kodak is not responsible for any disposal activity before September 1957.

1. No Nexus to Stickney or Tyler Landfills

All of the testimony on which TLI relied links NL only to the Dura Landfill, and not to Stickney or Tyler. (Dauterman; Osenbach; Reed). Witnesses expressly stated that NL's waste would *not* have gone to Tyler, because NL's waste was picked up by a front-end loader. This loader would *not* have gone to Tyler. (Morawski; "EPA 1995-2"). Dauterman states that he would use Tyler and Stickney only on occasion, and does not indicate that he used either for NL's waste. Morawski states that he used all landfills generally, but in a separate interview, claims NL's waste would not have gone to Tyler. Witness "EPA 1995-2" states that he took NL's trash to Dura until it closed. He only "supposes" that it went to Stickney, and doubts it could have gone to Tyler. Collectively, statements by these employees establish a relationship between NL and Community Sanitation, but no link whatsoever to the Stickney or Tyler landfills.

2. Frequency of Pick-ups and Volume is Overstated

The entire calculated volume for NL is based on one slender statement each by two witnesses. However, the calculated volume is directly at odds with these witness statements. One witness, "EPA 1995-2," stated that NL *was a small account* until L&F bought the facility and that it was not until 1962 or 1963 that NL was using seven three-yard containers. Even so, TLI assumed in its calculations that NL was using seven three-yard containers the entire time starting in 1950. Another witness, Osenbach, worked only from 1961 to 1970 and stated that he picked up waste from NL two or three times per week and hauled it to Dura. This is the only basis that TLI had for calculating the frequency of pick-ups and used it for the entire time period even though Osenbach did not begin work until 1961. Since L&F was a "small account" in the decade before 1962 or 1963, it follows that both its pickup frequency and the amount picked up per week would have been far less before Mr. Osenbach began working.

3. No Hazardous Substances Were Disposed

It is known that NL produced household products, such as Lysol. No evidence exists that the materials disposed of contained hazardous substances. To the contrary, Mr. Galbraith, Manager of Community Sanitation, claims that only solid waste was picked up from NL. "EPA 1995-2" also states that he took only trash from NL and never took drummed or liquid waste for NL. Dauterman, who hauled from 1956 to 1969, claims that NL's waste consisted of unknown materials and empty barrels. Osenbach who worked from 1961 to 1970, claims in an unsigned

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affidavit that NL's waste was general rubbish, and that once a month a truck load of old containers formerly containing cleaners would be hauled away.

* * *

In summary, TLI provides no basis for allocating CERCLA liability to Kodak. The information does not support disposal of *any* waste at either Stickney or Tyler, and simply assumes that the waste materials were hazardous. The volume and frequency of shipments is either contradicted by the witness statements, or not supported over the time period of NL's alleged involvement.

Further, even if waste was sent from NL to Tyler — an assumption contrary to the testimony that Tyler was not used at all for NL's waste — Kodak would bear no responsibility for the shipments pre-dating September 1957. This alone has the effect of reducing the share of liability ascribed to Kodak by TLI for this site by two-thirds.

Thank you for your attention to this matter. We would be pleased to meet with U.S.EPA to discuss any of the information set forth in this letter.

Very truly yours,

SEYFARTH, SHAW, FAIRWEATHER & GERALDSON

By



Andrew H. Perellis

AHP/bdp
Enclosures

cc: Dave Musel, Department of Justice
[REDACTED] Chief, Remedial Response Branch #1, U.S. EPA
Jane E. Montgomery, Schiff, Hardin & Waite

10064119.1

CLOSING MEMORANDUM

Acquisition by

NATIONAL LABORATORIES, INC. (a Delaware corporation and a subsidiary of Lehn & Fink Products Corporation)

Of the

Assets of

NATIONAL LABORATORIES, INC. (an Ohio corporation)

I

The Agreement

This memorandum relates to the closing of an agreement dated August 20, 1957 between Lehn & Fink Products Corporation ("Lehn & Fink") and National Laboratories, Inc., an Ohio corporation ("National of Ohio"), for the acquisition of the latter. National of Ohio, with its principal offices at 4934 Lewis Avenue, Toledo, Ohio, manufactured liquid cleaning materials and distributed its products throughout the United States. Its three products were N-L Concentrate, an all-purpose liquid cleaner; Dura-Tex, a floor wax; and Vani-Sol, a liquid toilet bowl cleanser.

In August, 1957, following negotiations between the officers of Lehn & Fink and the officers of National of Ohio, a form of agreement was prepared providing for the purchase by Lehn & Fink of all of the business, properties and assets of National of Ohio for \$2,128,500, and the assumption by Lehn & Fink of all of the liabilities of National of Ohio outstanding on the closing date as shown on the books of account of National of Ohio or as

otherwise revealed in writing to Lehn & Fink prior to the closing. This agreement was presented to the stockholders of National of Ohio at a special meeting held on August 19, 1957. Holders of more than two-thirds of the outstanding shares of National of Ohio approved the form of agreement, authorized its officers to execute and deliver the same, and authorized sale of the assets of the corporation to Lehn & Fink in accordance with the agreement. [37]* The stockholders also adopted a plan of complete liquidation and dissolution of the corporation, and authorized a change in its name to "4934 Lewis Avenue, Inc." [42]

On August 19, 1957, subsequent to the meeting of stockholders, the directors of National of Ohio held a special meeting and authorized the execution by the President and Secretary of the agreement approved earlier by the stockholders. [41]

The Agreement of Sale in the form presented to the meeting of stockholders of National of Ohio was signed by representatives of Lehn & Fink and National of Ohio on August 20, 1957. [1]

On August 23, 1957, at a special meeting of the Board of Directors of Lehn & Fink the Board approved the Agreement of Sale and ratified the actions of the President and Secretary of the corporation in executing the agreement. [140]

The Agreement of Sale provided for a closing on September 17, 1957.

II

Investigation of National of Ohio

Pursuant to the rights granted to it under the Agreement of Sale, Lehn & Fink undertook to investigate all matters relating to the business, properties and assets of National of Ohio. Patterson, Belknap & Webb, general counsel to Lehn & Fink, investigated matters pertaining to some of the warranties of National of Ohio contained in the Agreement of Sale. Other warranties, particularly those relating to National of Ohio's books of account and the conduct of its business prior to the closing, were investigated by Price Waterhouse, Lehn & Fink's accountants. Mr. Malcolm B. Ramey, of Messrs. Shumaker, Loop & Kendrick, Toledo, Ohio, investigated National of Ohio's title to its real [47] and personal property. [69].

National of Ohio submitted disclosure schedules to Lehn & Fink. [5 , 9].

III

Incorporation of National of Delaware and Assignment of Agreement of Sale

A few weeks before the closing, with a view to maintaining the morale of the personnel of National of Ohio and the continuity of its customer relationships, Lehn & Fink decided to incorporate a Delaware subsidiary and assign to it the rights and obligations of Lehn & Fink under the Agreement of Sale. Consequently, at a meeting of Lehn & Fink's Executive Committee, held

September 13, 1957, the organization of a Delaware corporation to be called National Laboratories, Inc. ("National of Delaware") with an authorized capital of \$1,000,000 composed of 1,000,000 shares of \$1 par value common stock was authorized. [143]. Lehn & Fink was authorized to subscribe for 500,000 shares of such common stock at par. Lehn & Fink was also authorized to lend to National of Delaware \$1,700,000, payable in 5 years, with interest at 5% per annum. This loan was to be secured by the promissory note of National of Delaware. The Executive Committee also authorized the assignment of the Agreement of Sale to National of Delaware, and a guarantee by Lehn & Fink of the performance of the Agreement of Sale by National of Delaware. This action of the Executive Committee was ratified by the Board of Directors of Lehn & Fink at a meeting held on September 27, 1957.

In accordance with these resolutions, the Certificate of Incorporation of National of Delaware was filed with the Secretary of State of Delaware on September 13, 1957. [147]. The first meeting of the incorporators was held on September 13, 1957. By-laws were adopted and Messrs. Edward Plaut, Walter N. Plaut and James W. Newman were elected as directors of the corporation.

The first meeting of the Board of Directors of National of Delaware took place on September 16, 1957. L. C. Van Nest was elected a director. Lehn & Fink subscribed to 500,000 shares of \$1 par value common stock at par. [13]. There were no other stock subscriptions. Acceptance of an assignment of the Agreement of

Sale and performance of all of the obligations of Lehn & Fink thereunder were authorized. [187].

Lehn & Fink assigned all of its rights in the Agreement of Sale to National of Delaware by an instrument dated September 16, 1957. [184].

On September 17, 1957, Lehn & Fink made a loan to National of Delaware of \$1,700,000 on the terms mentioned above, secured by a promissory note bearing that date. [15].

The \$500,000 paid to National of Delaware for its stock, and the \$1,700,000 borrowed from Lehn & Fink thus gave National of Delaware sufficient funds to perform its obligations under the Agreement of Sale.

IV

The Closing

The closing took place September 17, 1957, in the conference room of Lehn & Fink at 445 Park Avenue, New York City, commencing at 10:30 A.M. The following were present:

Representing National of Ohio:

L. C. Van Nest, President
V. L. Van Nest, Vice President
N. W. Jennings, Secretary-Treasurer
Joseph A. Yager and C. Victor Beck,
Jr., of Cobourn, Yager, Notnagel,
Smith & Beck, Toledo, Ohio
counsel to National of Ohio
Robert Floyd
of Arthur Young & Co., Toledo,
Ohio, accountants for National
of Ohio

Representing Lehn & Fink and National of Delaware:

Edward Plaut, President and Chairman
of the Board of Lehn & Fink and
Chairman of the Board of National
of Delaware

Walter M. Plaut, Vice President of
Lehn & Fink and National of Delaware

James W. Newman, Secretary-Treasurer of
Lehn & Fink and National of Delaware

Richard G. Moser and Joel M. Feinberg
of Patterson, Belknap & Webb, general
counsel to Lehn & Fink and National
of Delaware.

The closing involved the following steps:

- (a) Delivery of evidence of the assignment
of Lehn & Fink's rights in the Agreement
of Sale to National of Delaware and the
acceptance by National of Delaware of
the rights and obligations of Lehn &
Fink under the Agreement of Sale.
- (b) The sale to National of Delaware by
National of Ohio of all of the business,
properties and assets of the latter.
- (c) The payment of \$2,128,500 to National
of Ohio by National of Delaware and the
delivery of a duly executed Instrument
of Assumption of Liabilities.
- (d) Delivery of an instrument by Lehn & Fink
guaranteeing performance of the Agreement
of Sale by National of Delaware and of
the obligations of National of Delaware
under the Instrument of Assumption of
Liabilities.

These steps were effectuated by the exchange at the closing of the following documents:

A. Documents delivered by National of Ohio to National of Delaware

1. ~~Articles of Incorporation of National of Ohio, as amended, certified on September 10, 1957, by the Secretary of State of Ohio. [16].~~
2. Certificate dated September 17, 1957 of the Secretary of National of Ohio certifying Articles of Incorporation and stating that there have been no further amendments. [22].
3. Certificate dated September 10, 1957, of the Secretary of State of Ohio relating to good standing of National of Ohio. [23].
4. Code of Regulations of National of Ohio, as amended. [24].
5. Certificate dated September 17, 1957, of the Secretary of National of Ohio certifying Code of Regulations. [31].
6. Certificate of the Secretary and President of National of Ohio, dated September 17, 1957, of incumbency and specimen signatures of officers. [32].

7. Certificate dated September 17, 1957,
of the President and Treasurer of
National of Ohio stating compliance
with warranties of Agreement of Sale
to closing date. [34].
8. Certificate dated September 17, 1957,
of the Secretary of National of Ohio,
containing resolution of stockholders
adopted August 19, 1957, authorizing
approval of Agreement of Sale and sale
of assets to Lehn & Fink, together with
attached copies of form of Waiver of
Notice and Proxy used at meeting. [37].
9. Certificate dated September 17, 1957,
of the Secretary of National of Ohio
containing resolution of Board of
Directors adopted August 19, 1957,
authorizing President and Secretary
to execute Agreement of Sale approved
by stockholders. [41].
10. Certificate dated September 17, 1957,
of the Secretary of National of Ohio
containing resolution of stockholders
adopted August 19, 1957, amending
Articles of Incorporation by changing
name of corporation to "4934 Lewis
Avenue, Inc." [42].

11. Certificate dated September 17, 1957, of the Secretary of National of Ohio containing resolution of Board of Directors adopted September 10, 1957, consenting to use of name "National Laboratories, Inc." by Lehn & Fink or National of Delaware. [43].
12. Opinion letter dated September 17, 1957, from Cobourn, Yager, Notnagel, Smith & Beck to National of Delaware regarding corporate status of National of Ohio and other matters. [44].
13. Opinion letter dated September 6, 1957, from Shumaker, Loop & Kendrick to Lehn & Fink regarding title of National of Ohio to real property at 4934 Lewis Avenue, together with covering letter dated September 5, 1957, and a diagram of the premises. [47].
14. Title Continuation Certificate No. 299564 of the Title Guarantee & Trust Company, Toledo, Ohio, dated August 27, 1957, for property at 4934 Lewis Avenue. (Delivered after closing). [53].
15. No Change Certificate No. 299897 of the Title Guarantee & Trust Company, Toledo, Ohio, dated September 17, 1957, for property at 4934 Lewis Avenue. (Delivered after closing). [57].

16. Warranty deed dated September 17, 1957, from National of Ohio to National of Delaware for property at 4934 Lewis Avenue, Toledo, Ohio. [59].
17. Consent dated September 13, 1957, of Toledo Terminal Railroad Company to assignment by National of Ohio to National of Delaware of lessee's interest, under lease dated March 23, 1948, in railroad spur on northern part of property at 4934 Lewis Avenue. [61].
18. Assignment dated September 17, 1957, by National of Ohio to National of Delaware of lessee's interest, under lease dated March 23, 1948, with Toledo Terminal Railroad Company, in railroad spur on northern part of property at 4934 Lewis Avenue. [62].
19. Opinion letter dated September 11, 1957, from Shumaker, Loop & Kendrick to Lehn & Fink regarding title to National of Ohio to its tangible personal property. [63].
20. Blanket Bill of Sale dated September 17, 1957, from National of Ohio to National of Delaware. [64].
21. Letter dated September 5, 1957, from Malcolm W. Fraser to Lehn & Fink listing patents, patent applications, and trademark registrations owned by National of Ohio and expressing his opinion as to their

validity. [67].

22. Assignment of Trademarks dated September 17, 1957, from National of Ohio to National of Delaware. [69].

23. Assignment of Patents dated September 17, 1957, from National of Ohio to National of Delaware. [72].

24. Assignment of Applications for United States Letters Patent dated September 17, 1957, from National of Ohio to National of Delaware. [74].

25. Copy of letter dated September 12, 1957, from National of Ohio to Ohio Citizens Trust Company, Toledo, Ohio, authorizing transfer of deposits to National of Delaware on the closing date. [78].

26. Copy of letter dated September 12, 1957, from National of Ohio to the Sylvania Savings Bank Company, Sylvania, Ohio, authorizing transfer of deposits to National of Delaware on the closing date. [80].

27. Certificate dated September 17, 1957, of the Treasurer of National of Ohio listing all bank deposits as of the close of business on September 16, 1957. [82].

28. Transfer of title to:

(a) Beechcraft Airplane Model D18S.

(Title certificate delivered at

closing to L. C. Van Nest as
President of National of Delaware.)

(b) 1955 Chevrolet Station Wagon.

(Title certificate delivered at
closing to N. W. Jennings as
representative of National of
Delaware.)

29. Summary of certain insurance policies
assigned by National of Ohio to National
of Delaware, effective September 17, 1957.
[83].
30. Letter dated September 13, 1957,
from National of Ohio to Hill Carson &
Associates, Toledo, Ohio, instructing
the latter to assign, effective September
17, 1957, to National of Delaware certain
group life and other insurance policies
owned by National of Ohio. [85].
31. Eight promissory notes, each for \$63.49,
from the Standard Supply Co., Waterbury,
Conn., to the order of National of Ohio,
payable at various times, endorsed without
recourse to the order of National of
Delaware, together with copies of two covering
letters dated August 5, 1957 and August 13, 1957,
respectively. [86].
32. Promissory note dated July 9, 1957,
for \$400, from Helmut Melzer to National
of Ohio payable at the rate of \$50 per month,
endorsed without recourse to the order of

of National of Delaware. [96].

33. Promissory note dated December 10, 1956, for \$2000 from C. L. Earp to National of Ohio payable at the rate of \$100 per month, endorsed without recourse to the order of National of Delaware. [97].
34. Employment Agreement dated September 16, 1957, between L. C. Van Nest and National of Ohio. [98].
35. Assignment dated September 17, 1957, from National of Ohio to National of Delaware of Employment Agreement dated September 16, 1957, between L. C. Van Nest and National of Ohio. [100].
36. Termination Agreement dated September 16, 1957, between L. C. Van Nest, Inez Van Nest, and National of Ohio, terminating upon the closing of the Agreement of Sale, an Employment Agreement dated September 21, 1953, providing for payment upon death of L. C. Van Nest of one-half of his annual salary to his designated beneficiary. [102].
37. Agreement dated September 16, 1957, between L. C. Van Nest, Inez D. Van Nest, National of Ohio and National of Delaware, cancelling a Stock Purchase Agreement dated January 21, 1952; authorizing the transfer to National of Delaware of insurance policies obtained by National of

Ohio pursuant to the Stock Purchase Agreement; and granting to L. C. Van Nest an option to purchase these policies from National of Delaware under certain conditions.[103].

38. Substitution Agreement dated September 17, 1957, between V. L. Van Nest, National of Ohio and National of Delaware, substituting National of Delaware for National of Ohio under an Option to Purchase Life Insurance Policies, dated January 21, 1952, granted by National of Ohio to V. L. Van Nest. [105].
39. Undated letter from District Director, Internal Revenue Service, to National of Ohio, stating that company's Profit-Sharing Plan and Trust Agreement complies with Section 401(a) of the Internal Revenue Code of 1954, certified by Secretary of National of Ohio on September 17, 1957. [106].
40. Certificate dated September 17, 1957, of the Secretary of National of Ohio containing resolutions of the Board of Directors adopted August 19, 1957, containing authority for substitution of National of Delaware for National of Ohio as employer under the Profit-Sharing Plan and Trust Agreement. [108].
41. Substitution Agreement dated September

17, 1957, between National of Ohio and National of Delaware substituting the latter for the former as employer under the Profit-Sharing Plan and Trust Agreement. [110].

42. Receipt dated September 17, 1957, signed by National of Ohio, for Treasurer's check No. T 2804, dated September 17, 1957, in the sum of \$2,128,500 of the Hanover Bank, 70 Broadway, New York City payable to the order of National of Ohio and delivered by National of Delaware. [114].

B. Documents delivered to National of Ohio by National of Delaware with respect to Lehn & Fink

43. Composite Certificate of Incorporation of Lehn & Fink, together with certificate dated September 10, 1957, of the Secretary of State of Delaware certifying Composite Certificate of Incorporation and good standing of Lehn & Fink. [15].

44. Certificate dated September 17, 1957, of the Secretary of Lehn & Fink, certifying Composite Certificate of Incorporation and stating that there have been no further amendments. [28].

45. By-Laws of Lehn & Fink, dated August 23, 1957. [29].

46. Certificate dated September 17, 1957, of Secretary of Lehn & Fink, certifying By-Laws. [137].
47. Certificate of the Vice President and Secretary of Lehn & Fink, dated September 17, 1957, of incumbency and specimen signatures of officers. [138].
48. Certificate dated September 17, 1957, of the Secretary of Lehn & Fink containing resolutions of Board of Directors adopted August 23, 1957, approving execution of the Agreement of Sale by the President and Secretary and authorizing performance. [140].
49. Certificate dated September 17, 1957, of the Secretary of Lehn & Fink containing resolution of the Board of Directors adopted November 21, 1956, appointing Executive Committee of Lehn & Fink. [142].
50. Certificate dated September 17, 1957, of the Secretary of Lehn & Fink containing resolutions of the Executive Committee adopted September 13, 1957, authorizing establishment of a Delaware subsidiary to be called "National Laboratories, Inc.," assignment to it of the Agreement of Sale and a guarantee by Lehn & Fink of performance by the subsidiary. [143].
51. Opinion letter dated September 17, 1957, from Patterson, Belknap & Webb to National

of Ohio, regarding corporate status of
Lehn & Fink and other matters. [145].

C. Documents delivered to National of Ohio by
National of Delaware with respect to itself

52. Certificate of Incorporation of National
of Delaware, certified by the Secretary
of State of Delaware on September 13, 1957.
[147].
53. Certificate dated September 17, 1957,
of the Secretary of National of Delaware
certifying Certificate of Incorporation
and stating that there have been no
further amendments. [164].
54. By-laws of National of Delaware dated
September 16, 1957. [165].
55. Certificate dated September 17, 1957,
of the Secretary of National of Delaware
certifying by-laws. [181].
56. Certificate of the Vice President and
Secretary of National of Delaware, dated
September 17, 1957, of incumbency and
specimen signatures of officers. [182].
57. Assignment dated September 16, 1957,
of Agreement of Sale from Lehn & Fink
to National of Delaware. [184].
58. Certificate dated September 17, 1957
certifying Assignment of Agreement of
Sale. [186].
59. Certificate dated September 17, 1957,

Ohio, lessee under leases effective until November 30, 1959 of the northwest corner of the property at 4934 Lewis Avenue. [194]. The letter informs the lessee of the sale of the business of National of Ohio to National of Delaware and instructs the lessee to pay future rent to National of Delaware. The lessee is also asked to acknowledge that the two leases are its only interest in the Lewis Avenue property. A similar letter was sent to Commercial Carriers, Inc., lessee under a lease expiring February 28, 1959 of the eastern part of the property at 4934 Lewis Avenue. [195].

A copy of the Substitution Agreement under the Profit-Sharing Plan and Trust Agreement, and a certified copy of the resolution of the Board of Directors of National of Ohio containing authority for the substitution of National of Delaware for National of Ohio as employer under the Plan, were sent to C. Victor Beck, Jr. to be filed by him with the Trustee under the Plan. A copy of the Substitution Agreement was also sent to Mr. Beck for filing with the local Internal Revenue Agent.

Patterson, Belknap & Webb

Agreement of Sale

THIS AGREEMENT, made the 20th day of August, 1957, between LEHN & FINK PRODUCTS CORPORATION, a Delaware corporation (hereinafter called "Lehn & Fink"), and NATIONAL LABORATORIES, INC., an Ohio corporation (hereinafter called "National"),

WITNESSETH:

In consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. WARRANTIES AND REPRESENTATIONS:

National warrants and represents as follows:

(a) The books of account of National fairly and correctly reflect its income, expenses, assets and liabilities in accordance with generally accepted accounting principles consistently applied. The balance sheet of National as of March 31, 1957 heretofore furnished to Lehn & Fink fairly represents the financial condition of National on such date.

(b) National has good and marketable title in fee simple to all lands and buildings shown as assets in its records and books of account, free and clear of all liens, encumbrances and charges, except current taxes and assessments due and payable after the date hereof, and such liens, encumbrances and charges as do not render the title unmarketable, but subject to existing leases, easements of record, legal highways and zoning regulations, and will have such title at the time of the closing.

(c) National has good and marketable title to the machinery, equipment, merchandise, materials, supplies and other property of every kind, tangible or intangible, contained in its offices and plants or shown as assets in its records and books of account, free and clear of all liens, encumbrances and charges except such liens, encumbrances and charges as do not render the title unmarketable, and will have such title at the time of the closing.

(d) National owns the entire right, title and interest in and to, and has the sole and exclusive right to the trade marks and trade names now or heretofore employed in its business, and will have such ownership and right at the time of the closing.

(e) National owns the entire right, title and interest in and to, and has the sole and exclusive right to the inventions, letters patent, applications for letters patent and patent license rights, if any, employed in its business, and will have such ownership and right at the time of closing.

(f) All taxes imposed by the United States, any state or any subdivision, instrumentality or taxing authority thereof or any foreign country believed by National to be due or payable by National and all renegotiation claims asserted or reasonably likely to be asserted have been paid in full or adequately provided for by reserves shown on the books or otherwise disclosed to Lehn & Fink; Federal income and excess profits tax returns for National have been examined and accepted by the Internal Revenue Service for all years through December 31, 1953 except as stated in the Disclosure Schedule hereinafter referred to.

(g) National is not a party to any sales agency agreement not subject to termination on notice of 60 days or less, has no contract for the purchase or sale of any materials, products or supplies which contains an escalator, renegotiation or redetermination clause or which commits National for a fixed term, has no contract of employment with any officer, or employee not terminable at will, has no pension, retirement or profit sharing plan or agreement not cancellable within 60 days, has no management or consultation agreement not terminable at will, and is not a party to any agree-

ment entered into other than in the usual and ordinary course of business, other than those listed and described in the Disclosure Schedule.

(h) National is not a party to any lease, license, royalty or union agreement other than those listed and described in the Disclosure Schedule.

(i) There are no actions or proceedings pending by or against National before any court or administrative agency, except the case of *Victor Forman v. National Laboratories, Inc.* as will be described in the Disclosure Schedule, and there are no other pending, threatened or known to be imminent litigations, governmental investigations, claims of infringement of patents or trade marks, or governmental claims, complaints or prosecutions involving National, except as listed and described in the Disclosure Schedule.

(j) The Disclosure Schedule will include a full and complete list and description of each contract, accepted order or commitment of National for the purchase or sale of materials, products or supplies having a total contract price in excess of \$5,000.00, and, in the case of each such contract, order or commitment for the sale of materials, products or supplies, a statement of National's most recent estimate and appraisal of the profit or loss to be expected from the performance thereof. Adequate reserves have been provided and set up on the books for any sale contract, order or commitment expected to be performed at a loss.

(k) National has the legal power to enter into and consummate this Agreement, subject to due authority granted by its Board of Directors and by its shareholders prior to the closing, as hereinafter provided.

(l) During the period from April 1, 1957 to the date of the closing, National shall have conducted its business in accordance with the requirements and prohibitions set forth in paragraph 6 hereof.

Notwithstanding any investigation of National by Lehn & Fink, Lehn & Fink shall be entitled to rely upon the foregoing warranties and representations, and the obligation with respect thereto of National shall survive the closing except to the extent specifically waived in writing by Lehn & Fink; provided always, however, that National shall have the right to liquidate and dissolve at any time after the date hereof and the shareholders of National shall have no liability whatsoever in any way arising out of or resulting from this Agreement or from the sale of the assets and properties of National as herein provided.

The Disclosure Schedule shall be delivered by National on or before August 30, 1957.

2. ASSETS TO BE TRANSFERRED:

National agrees to transfer to Lehn & Fink, on the terms and conditions set forth in this Agreement, all of the business, properties and assets, tangible or intangible of every kind and nature and wherever situated belonging to National as of the closing date hereinafter specified, free and clear of all encumbrances, except taxes and assessments due and payable after the date hereof, existing leases, easements of record, legal highways and zoning regulations.

3. CONSIDERATION FOR ASSETS:

As the consideration for the assets to be transferred hereunder, Lehn & Fink agrees to pay to National as consideration for each class of assets transferred to Lehn & Fink hereunder the amounts set opposite each such class on Schedule A annexed hereto in the aggregate amount of \$2,128,500. As further consideration for said assets, Lehn & Fink shall execute and deliver to National at the closing a duly executed undertaking by Lehn & Fink, in form reasonably satisfactory to counsel for National, to assume, defend, pay, perform or discharge all taxes, liabilities, obligations and commitments of National outstanding and unpaid or unperformed on the closing date as shown on the books of account of National or as otherwise revealed in writing to Lehn & Fink prior to the closing, and to indemnify National for the same.

4. INVESTIGATION BY LEHN & FINK:

During the period from the date of this Agreement to the closing date, Lehn & Fink shall have free access to the offices, plants, records, files, books of account and copies of tax returns of National for the purpose of conducting an investigation of National's financial condition, its corporate status, liabilities, contracts, business operations, property and title thereto, litigation, patents, trade marks, copyrights and all other matters relating to National's business, properties and assets, provided, however, that such investigation shall be conducted in a manner that does not unreasonably interfere with National's normal operations and employee relationships. National shall cause its personnel to aid and assist Lehn & Fink in making such investigation and shall make its counsel, accountants, engineers, employees and other representatives available to Lehn & Fink for such purposes. During such investigation Lehn & Fink shall have the right to make copies of such records, files, tax returns and other materials as it may deem advisable. If this Agreement is not consummated, Lehn & Fink and its representatives shall treat all information obtained in such investigation, and not otherwise known to Lehn & Fink, as confidential and shall return to National all copies made by Lehn & Fink and its representatives of material belonging to National.

5. CLOSING:

The closing date shall be September 17, 1957, or such earlier or later date as may be mutually agreed upon in writing by the authorized officers of Lehn & Fink and National. The closing shall take place at 10:00 A.M. on the closing date at the New York office of Lehn & Fink or at such other place as may be mutually agreed upon in writing by the authorized officers of Lehn & Fink and National. During the closing, Lehn & Fink shall deliver (i) a certified check payable to National in the amount set forth in paragraph 3 above, to-wit, \$2,128,500, (ii) the instrument of assumption of liabilities referred to above, and (iii) such opinions of counsel, certifications, notices and further assurances as counsel for National may reasonably require as necessary or desirable for effecting performance of this agreement by Lehn & Fink; and National shall deliver such deeds, bills of sale, assignments, documents, instruments, insurance policies and endorsements, opinions of counsel, certifications, title policies, notices and further assurances as counsel for Lehn & Fink may reasonably require as necessary or desirable for transferring, assigning and conveying to Lehn & Fink good and marketable title to the business, properties and assets of National.

6. CONDUCT OF BUSINESS PENDING CLOSING:

During the period from the date hereof to the closing date, National shall continue to conduct its operations according to its ordinary and usual course of business and it shall maintain its books of account in a manner that fairly and correctly reflects its income, expenses, assets and liabilities in accordance with generally accepted accounting principles, consistently applied. National shall not during such period without the written consent of Lehn & Fink:

(a) Pay or incur any obligation or liability, absolute or contingent, other than current liabilities incurred in the ordinary and usual course of business;

(b) Assume, guarantee, endorse or otherwise as accommodation become responsible for obligations of any other individual, firm or corporation; or make any loans or advances to any individual, firm or corporation, or incur any indebtedness for borrowed money;

(c) Declare or pay any dividends in excess of the usual dividends of \$1.20 quarterly per share or make any payment or distribution to stockholders as such or purchase or otherwise acquire for value any of its outstanding capital stock, except that National shall have the right to declare and pay a dividend of \$1.20 per share for the third quarter prior to the closing date.

(d) Mortgage, pledge or subject to lien or other encumbrance any of its properties or assets;

(e) Sell or transfer any of its properties or assets or cancel, release or assign any indebtedness owed to it or any claims held by it, except in the ordinary and usual course of its business and for a consideration equal to the fair value thereof;

(f) Make any investment of a capital nature either by the purchase of securities (other than United States Government securities), contributions to capital, property transfers or otherwise, or by the purchase of any property or assets of any other individual, firm or corporation for an amount or amounts aggregating more than \$10,000.00;

(g) Enter into any sales agency agreement not subject to termination on notice of 60 days or less; ~~any contract for the purchase or sale of any materials, products or supplies, the total contract price of which exceeds \$5,000.00 or which contains an escalator, renegotiation or redetermination clause or which commits National for a fixed term; any management or consultation agreement; any lease, license, royalty or union agreement; or any agreement not in the usual and ordinary course of business; or make any material change in its insurance or advertising commitments or arrangements; or~~

(h) Increase in any manner the compensation of any of its executive employees except in the usual and ordinary course of business or pay or agree to pay any pension or retirement allowance not required by any existing plan to any of such officers or employees, or commit itself to any additional pension, retirement or profit sharing plan or agreement or employment agreement with or for the benefit of any officer, employee or other person.

7. PAYMENT OF EXPENSES:

Each party hereto shall pay the costs and expenses (including taxes) incurred by it before, during or after the closing in connection with conducting the negotiations leading to this agreement or performing or otherwise carrying out the provisions of this agreement.

8. AFTER THE CLOSING:

Subsequent to the closing the following steps shall be taken:

(a) National shall forthwith take such steps as may be legally required to change its corporate name to a new name which has no material resemblance to its present name.

(b) National shall forthwith turn over to Lehn & Fink all of its files, books and records, except its stock books, stock ledger and other records relating to its capital stock. During the five years following the closing, Lehn & Fink shall, at reasonable times during business hours, permit representatives of National and its shareholders on request to inspect the files, books, and records so turned over and to make extracts therefrom.

(c) Each party shall at the request of the other furnish, execute and deliver such documents, instruments, opinions of counsel, certificates, notices or other further assurances as counsel of the requesting party shall deem necessary or desirable for effecting complete consummation of this Agreement.

9. APPROVALS AND CONDITIONS:

After execution by National this agreement shall be deemed effective when executed by Lehn & Fink in the City of New York but shall not become binding upon either party until (i) it is approved by the Executive Committee or the Board of Directors of Lehn & Fink and (ii) it is approved by the Board of Directors of National and by the affirmative vote of the holders of at least two-thirds of the outstanding shares of National entitled to vote, at a meeting duly called for the purpose at or prior to which a full disclosure shall have been made to all National shareholders of the terms of this transaction.

10. TERMINATION:

This Agreement may be terminated under any of the following circumstances by notice in writing sent by the terminating party to the other on or before the closing date unless otherwise specified:

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(a) Lehn & Fink shall have the right to terminate if during the period from the date hereof to the closing date any of the following shall occur:

(i) National shall suffer any loss from fire, flood, explosion or other casualty which substantially affects the conduct of its business or, irrespective of insurance, the value of its assets.

(ii) ~~Lehn & Fink shall learn of any fact or condition with respect to National's business,~~ good will, properties or assets which is substantially at variance with one or more of the warranties or representations as set forth above or which is first revealed in the Disclosure Schedule and is so at variance with the disclosures and representations made to Lehn & Fink prior to execution of this Agreement as to detract substantially from the value of the assets to be transferred hereunder, and after written notice thereof National shall be unable to furnish reasonable assurance satisfactory to Lehn & Fink.

(iii) National shall commit a substantial breach of any one or more of the obligations or prohibitions set forth in paragraph 6 of this Agreement and National shall be unable to furnish reasonable assurance satisfactory to Lehn & Fink.

(iv) Lehn & Fink shall learn that any contract of substantial importance cannot be performed except at a loss or burden for which an adequate reserve has not been or cannot be provided and the parties are unable to agree to have such contract excluded from Lehn & Fink's assumption of liabilities hereunder.

(v) The net worth of National at the closing date determined in a manner consistent with the balance sheet of March 31, 1957 referred to above is less than \$900,000.

(b) On the occurrence of any of the events specified in subparagraph (a) above, the parties may agree upon an amount by which the consideration shall be reduced on account of such event, in which case Lehn & Fink shall not terminate this Agreement and the consideration shall be so reduced. If the occurrence is a loss due to fire, flood, explosion or other casualty, Lehn & Fink shall have the right at its election either to terminate or to require consummation of this Agreement with the insurance proceeds included in the assets to be purchased.

NO LIABILITY FOR FAILURE OF CONSUMMATIONS:

If this Agreement shall not be consummated either because it is terminated or because of the inability of either of the parties by reason of causes beyond its control to carry out its performance as contemplated by this Agreement, neither party shall be liable to the other for loss, damage or expense the only remedy of either party shall be to terminate or cancel this Agreement.

NOTICES:

The Disclosure Schedule and all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly delivered if delivered in person or if sent by registered or certified mail postage prepaid or by telegraph:

(a) if to National,
Mr. Lisle C. Van Nest
National Laboratories, Inc.
4934 Lewis Avenue
Toledo 12, Ohio

(b) if to Lehn & Fink,
Mr. Walter N. Plaut, Vice President
Lehn & Fink Products Corporation
445 Park Avenue
New York 22, N. Y.

13. PARAGRAPH HEADINGS:

All paragraph headings herein are inserted for convenience only.

14. COUNTERPARTS:

This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

~~IN WITNESS WHEREOF~~, the parties have duly executed this Agreement as of the day first above written.

[CORPORATE SEAL]

LEHN & FINK PRODUCTS CORPORATION

By EDWARD PLAUT

President

ATTEST:

J. W. NEWMAN

Secretary

[CORPORATE SEAL]

NATIONAL LABORATORIES, INC.

By LISLE C. VAN NEST

President

ATTEST:

NORMAN W. JENNINGS

Secretary

Schedule A

NATIONAL LABORATORIES, INC.
(an Ohio corporation)

CURRENT ASSETS:		
Cash	\$606,536	
Accounts Receivable	241,040	
Inventories	221,762	
Prepaid Items and Deposits	<u>10,834</u>	\$1,080,172
LESS: CURRENT LIABILITIES:		
Accounts Payable	31,165	
Federal Income Tax	229,191	
Other Taxes and Expenses	156,842	
Dividend	<u>14,190</u>	431,388
Net Current Assets		<u>648,784</u>
Plant and Equipment		973,905
Cash Surrender Value of Life Insurance		30,007
Patents, Trade Marks, Formulae, Negative Covenants, Good Will, etc.		<u>475,804</u>
Purchase Price		<u><u>\$2,128,500</u></u>

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ASSUMPTION OF LIABILITIES

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss. 1

THIS INSTRUMENT WITNESSETH:

WHEREAS, LEHN & FINK PRODUCTS CORPORATION ("Lehn & Fink") and NATIONAL LABORATORIES, INC., an Ohio Corporation ("National of Ohio") entered into an Agreement of Sale (the "Agreement") dated August 20, 1957; and

WHEREAS, paragraph 3 of the Agreement requires Lehn & Fink to assume certain liabilities and obligations of National of Ohio as partial consideration for the transfer by National of Ohio of all its business, properties and assets to Lehn & Fink; and

WHEREAS, by an instrument dated September 16, 1957, Lehn & Fink assigned all its right, title and interest in the Agreement to National Laboratories, Inc., a Delaware corporation ("National of Delaware");

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, National of Delaware hereby covenants and agrees (except as hereinafter stated) to assume, defend, pay, perform or discharge all taxes (whether known or unknown to National of Ohio, National of Delaware or Lehn & Fink and whether or not revealed in writing or otherwise to National of Delaware or Lehn & Fink), and all liabilities, obligations and commitments of

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National of Ohio outstanding and unpaid or unperformed on the date hereof as shown on the books of account of National of Ohio or as otherwise revealed in writing to Lehn & Fink or to National of Delaware before the date hereof, and to indemnify National of Ohio for the same.

It is understood that this assumption of liabilities by National of Delaware does not include liability, if any, of National of Ohio to those of its shareholders who dissent from and assert dissenters' rights with respect to the sale of assets by National of Ohio pursuant to the Agreement, or liability for costs and expenses (including taxes) incurred by National of Ohio before, during or after the date hereof in connection with the negotiations leading to the Agreement or performing or otherwise carrying out the provisions of the Agreement.

Nothing herein shall be construed as a waiver of any warranty or representation set forth in the Agreement.

IN WITNESS WHEREOF, National of Delaware has duly executed this instrument and delivered the same to National of Ohio this 17th day of September, 1957.

NATIONAL LABORATORIES, INC.
a Delaware corporation

By Walter N. Plant
Vice-President

Attest:

J. W. Newman

In consideration of the consent by National of Ohio to the assignment to National of Delaware of the Agreement referred

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to in the foregoing instrument of Assumption of Liabilities, the undersigned Lehn & Fink Products Corporation hereby guarantees to National of Ohio the performance by National of Delaware of said agreement, and of the obligations of National of Delaware under said instrument of Assumption of Liabilities; hereby waives any notice or demand by National of Ohio which may be a condition to the enforcement of this guaranty, and hereby agrees to indemnify National of Ohio, its officers, directors and shareholders from any cost, expense or liability (including the expense of defending legal actions) that may arise by reason of the failure of National of Delaware to perform its obligations under said instrument of Assumption of Liabilities.

Dated: September 17, 1957

LEHN & FINE PRODUCTS CORPORATION

By /s/ Walter N. Plant
Vice President

Attest:

/s/ J.W. Newman

DISCLOSURE SCHEDULE OF
NATIONAL LABORATORIES, INC.

August 19, 1957

LEASES

1. With Standard Oil Company of Ohio on gasoline station we own. Lease runs from November 30, 1957 to and including November 30, 1959. Terms of lease are 1¢ per gallon up to 20,000 gallons and 1 1/4¢ on all gallons over 20,000 gallons sold in any month. In no event is rent to be less than \$200 per month.
2. Lease with Commercial Carriers, Inc., 3399 E. McNichols Road, Detroit 12, Michigan, on eastern portion of our land containing one 1 story building. Lease is dated November 28, 1955 and extends from March 1, 1956 to and including February 28, 1959. Rental terms -- \$3,000 per year, payable \$250 per month in advance.
3. Lease by Toledo Terminal Railroad Company to National Laboratories, Inc., dated September 21, 1947 covering a 15' strip of land on eastern boundary of our property extending east and west for a distance of 380'. Land contains spur of Toledo Terminal Railroad Company into our Plant. Rental cost to National Laboratories -- \$25.00 per year.

SUIT

Suit for libel and slander by Victor Forman against National Laboratories, Inc., signed October 15, 1952 in Common Pleas Court of Lucas County. Damages of \$150,000 asked. Attorney for Forman, Mr. Robert N. Zanville, died sometime ago and suit had remained inactive for several years before he died. Zanville told our attorneys that he would pursue no action unless Forman advanced him some money for his fee, which Forman has not done. It is the opinion of our attorneys that the case is dormant and will be thrown out of court eventually for lack of prosecution.

TAXES

Federal income tax returns of National Laboratories, Inc., have been checked by the Internal Revenue Department through the

August 19, 1957

year 1953 and were approved as submitted.

County Real Estate taxes and County Personal Tax have been paid when due and there are no delinquencies.

CONTRACTS

Contract was given to Stanford E. Thal, Inc., a Toledo concern, to begin the erection of an addition to our Laboratory and to remodel Mr. L. C. Van Nest's office and that of his Secretary. The initial low bid of this firm was \$37,975.00. In addition to this sum, additional extras were added in the amount of \$1155.00. In addition to this extra, there will be one additional extra cost of approximately \$350 for colored brick panels which will be installed in the west and north Laboratory walls. The initial architect's fee for the plans for this addition amount to \$2275.00 and the charge for building supervision by the architect, which is Samborn, Steketee and Associates, will be 2% on the total cost.

We have purchase contracts with the suppliers of our raw materials for the year 1957 as follows:

1. With Monsanto Chemical Company covering Tripolyphosphate.
2. With International Minerals and Chemical Corporation covering Caustic Potash and Hydrochloric Acid.
3. With Owens-Illinois Glass Company covering glass bottles for Vani-Sol. This is a three year contract beginning September 1955 and ending September 1958.

All of these contracts are cancellable by either party at any time.

AGREEMENTS

Employment agreement with Mr. L. C. Van Nest dated September 21, 1953. The agreement provides that in the event of the death of Lisle C. Van Nest, the Company will pay to his beneficiary an amount equal to 1/2 the annual salary being paid to Lisle C. Van Nest at the time of his death.

A profit sharing and trust agreement between National Laboratories, Inc., and the Ohio Citizens Trust Company for the purpose of providing a "Security Fund for its employees who qualify therefor". A Security Fund which would be normally called a pension fund.

An agreement between Lisle C. Van Nest and Inez D. Van Nest and National Laboratories, Inc., dated January 21, 1952, for the purpose of purchasing life insurance on the life of Lisle C. Van Nest in the amount of \$200,000. Premiums are paid by the Corporation and the beneficiary is National Laboratories, Inc. The policy may be terminated upon cessation of the Corporation's business among other reasons and each shareholder has the right, within 30 days of termination of this agreement, to purchase the insurance policy from the Corporation at a price equal to the cash surrender value of the policy on the date of termination.

An option running for 30 days after the termination of employment to Mr. V. L. Van Nest to purchase a life insurance policy insuring his life for the sum of \$50,000. The price for purchasing said policy is to be the cash surrender value of the policy on the date of termination of his employment.

An amendment to a stock purchase agreement dated February 27, 1956, between Lisle C. Van Nest and Inez D. Van Nest and National Laboratories, Inc., which provides for the amount to be paid each of them upon the death of Mr. L. C. Van Nest. The amendment provides for an amount of \$20.00 per share over and above the book value at the close of the previous quarter preceding the death of Lisle C. Van Nest.

Employment contracts are held by National Laboratories, Inc. with each sales representative in the field as well as the Regional Managers, Sales Manager, Divisional Sales Manager and other sales personnel. There are also employment contracts with each member of the Laboratory. All of these contracts basically provide that the employee will not, upon termination of his employment with National Laboratories for any reason, engage in work for a competitor in the same capacity in which he was employed by National Laboratories, Inc., for a period of one year.

EASEMENTS

There is an easement given to the Toledo Railways and Light Company (now Toledo Edison) dated March 6, 1920 covering a strip of land on the northern edge of our property on which is installed a high tension wire which traverses the city. The easement is a weak one which does not specify any specific width of ground or make clear the conditions. At one time an addition was constructed on our plant under the high tension lines which was objected to by

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NATIONAL LABORATORIES, INC., LIST OF PATENTS, TRADE-MARKS,
REGISTRATIONS

The name "N-L Concentrate", which is the name of our product, is trade-marked and registered. Patent No. 385,868 issued March 18, 1941 and will remain in force for 20 years until March 18, 1961. (See A)

The name "Vani-Sol", which is the name of our bowl cleanse, is trade-marked and registered. No. 350,752 issued May 17, 1937. Renewed October 5, 1957 and will remain in force 20 years until October 5, 1977 when it can be again renewed. (See B)

The name "Dura-Tex", which is the name of our product, (wax) is trade-marked and registered. No. 584,166 issued December 29, 1953 and will remain in force for 20 years until December 29, 1973. (See C)

Trade-mark has been granted for letters "NL" and black "V" shaped design or emblem on all Dura-Tex containers. No. 600,205 granted January 4, 1955 and will remain in force 20 years until January 4, 1975. (See D)

At one time we had a product for the removal of rust and stain from porcelain called "Lim-Rus" which name was registered and trade-marked under No. 362,979 dated July 27, 1938. This was in force for 20 years. However, the trade-mark act of 1946 required affidavits as to whether the product was in use before renewal of trade-mark could be issued. Since the product was discontinued, no renewal was issued. (See E)

VANI-SOL APPLICATOR (No Canadian patent applied for)

The Applicator consists of a plastic handle constructed of a special material to give it rigidity and a yarn-type head manufactured of Acrilan. This Applicator is sold in conjunction with Vani-Sol Bowl Cleanse. 4 Applicators being included in each case of 24 bottles of Vani-Sol.

1. The name "Vani-Sol" which appears on the handle of the Applicator is trade-marked and registered. No. 637,711 issued November 27, 1956 and will remain in force for 20 years until November 27, 1976. (See F)
2. Mechanical patent on Applicator applied for April, 1956 Application Serial No. 578,229. Patent officially allowed

July 5, 1957 but our attorney will wait six months from that date to file final government fee after which patent papers will be granted. (See G)

3. Design Patent for Applicator filed October 1956, Serial No. D-40813. Status of patent -- still pending with Examiner. (See H)
4. Assignment for design patent received from W. D; Williams on March 20, 1956 and recorded in Patent Office on March 28, 1956 (See I)

N-L SPOT BOTTLE

The Spot Bottle is a promotional item given to the customer in the sale of N-L Concentrate. At present two types are furnished -- a glass Spot Bottle and also a new plastic bottle. Sprayers included.

1. Trade-mark of the name "N-L Spot Cleaner" registered and granted February 16, 1954, No. 585,713 and will remain in force 20 years until February 16, 1974. (See J)

VANI-SOL KOASTER-KIT

The Koaster-Kit is a plastic holder for the one quart bottles of Vani-Sol and the Vani-Sol Applicator. It is used as a promotional item in conjunction with the sale of Vani-Sol Bowl Cleanse.

1. Design patent assignment received from Albert B. Fournier and W. D. Williams December 28, 1950. (See K)
2. Design patent on Koaster-Kit issued January 15, 1952 under No. D-165,683 and will remain in force 14 years until January 15, 1966. (See L)
3. Trade-mark of name "Koaster-Kit" granted on June 2, 1953 under Registration No. 575,317 and will be in force 20 years until June 2, 1973. (See M)

VANI-SOL FLO-KAP

The Flo-Kap is a plastic pouring device for Vani-Sol Bottles and is used as a promotional item in the sale of Vani-Sol Bowl Cleanse.

1. Design patent assignment dated January 18, 1956 received from Phillip D. Sanborn and recorded in Patent Office on January 24, 1956. (See N)
2. Design patent on Flo-Kap granted November 6, 1956, No. 179,159 and will remain in force 14 years until November 6, 1970. (See O)

No trade-mark ever filed for name "Flo-Kap".

E-Z POR

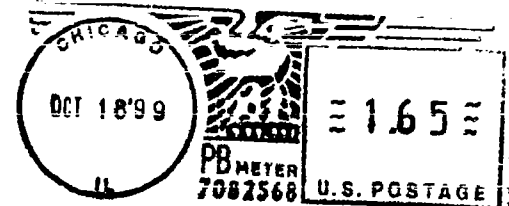
A plastic pouring device for use in both the 5-gallon pails of N-L Concentrate and Dura-Tex. Design patent application filed for on June 18, 1957. (See P)

NATIONAL LABORATORIES FAUCET

This is a plastic unit which is supplied at no charge on all containers of N-L Concentrate and Dura-Tex with the exception of 5-gallon pails.

1. Mechanical patent on Faucet-Gasket unit, Application Serial No. 501,143. Status of patent -- pending. (See Q)
 2. Patent for "O-Ring" feature of N-L faucet also still pending. (See R)
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In addition, we have a Special Permit 1407 from the Interstate Commerce Commission permitting shipment of Vani-Sol in glass bottles in an outside Specification ICC-12B fiberboard box. This was applied for at the time we went from an outside wooden box to the cardboard or corrugated type. Good until February 25, 1956. (See S)



SEYFARTH, SHAW, FAIRWEATHER & GERALDSON
ATTORNEYS AT LAW
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Ms. Wendy L. Carney
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